

PRIME MINISTER

COAL PRIVATISATION

You are meeting the Energy Secretary, Chancellor and Financial Secretary tomorrow at 1430 to discuss the privatisation of coal.

The main issue is timing.

There is agreement amongst the Ministers on the main sequence of events:

- appoint external advisers on the privatisation as soon as possible;
- go into the General Election committed to privatisation but giving no details on the timetable;
- issue a consultation paper after the Election;
- legislation in 1992; and
- privatisation thereafter.

The key difference of view is whether to privatise coal before new contracts are to be negotiated with the electricity generators (from April 1993). 80 per cent of BC's output goes to the generators.

Mr. Wakeham believes the new contracts have to be decided, before privatisation. Only when the terms and size of the contracts are clear, will it be possible to determine the shape and scale of a post privatisation British Coal.

The Treasury argue that an early sale in mid 1992 is to be preferred. Clearly that would be a challenging timetable. But it would put new management in place in time to take forward the negotiations with the generators on the new contracts; and, perhaps, to force through earlier improvements in productivity.

Policy Unit (see attached note) lean towards the Treasury's view.

Handling

The key issue for discussion tomorrow is the relative advantages and disadvantages of privatising before the new contracts with the generators are drawn up.

You might like to ask the following questions:

- (i) How far would anyone be prepared to bid, without the new contracts in place?

Department of Energy expect BC's output to go down by more than a third from the current 70m tonnes, when the new contracts are negotiated. Unofficially, City contacts have confirmed privatisation before the contracts would be very difficult. No-one would be interested in a trade sale (or a fortiori flotation) of a company with such uncertain prospects.

- (ii) Would it be practical to achieve the necessary restructuring in time for the earlier privatisation?

No decisions have yet been taken about the post-privatisation form of British Coal. It could be a single company; a number of separate companies; there might be a sale of individual pits. There might be a flotation or (more likely) trade sale. It takes time to work through all these options and determine the appropriate regulatory framework. Mr. Wakeham considers that means privatisation in 1994 - see attached new timetable.

- (iii) What are the political pros and cons of early privatisation?

There is a proposal for involving the miners themselves through employee ownership. What implications does that have for the timing of the privatisation? There

are wider union (UDM and NUM) and electoral considerations.

(iv) What are the economic costs of the different options?

Will postponing privatisation until 1994 mean that the productivity improvements identified in the Oakes Report (which you saw earlier) are less likely to be achieved? Or would the cost of earlier privatisation be higher long term subsidies to sustain fundamental uneconomic capacity and, ^{to} make the sale attractive?

Conclusion

You will want to conclude that external advisers should be appointed now to give views on the timing (within no more than three months). In essence, what you need from them is a quick decision on whether the fast track privatisation proposed by the Treasury is practical and sensible.

What can also go ahead (in a group chaired by Cabinet Office?) is consideration of: options for the structure of the privatised industry (including regulatory regime, ownership of reserves etc); and for different means of sale. The two exercises would come together as the timing was clarified.

BHP

(BARRY H. POTTER)

30 April 1991

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THE RT HON JOHN WAKEHAM MP



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Barry Potter Esq
Private Secretary to
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30 April 1991

Dear Barry

COAL INDUSTRY PRIVATISATION: TIMETABLE

IN MTC FOLDER

We spoke today and you asked whether we could prepare revised versions of Annexes A and B to my Secretary of State's minute of 27 March to the Prime Minister on the basis of an October election.

We have revised the Annexes on this basis and amended versions are attached. Given the complexity of the task, the precise timing must remain uncertain. The key question is whether we can prepare legislation in time for its introduction in the second session of the new Parliament. We have assumed introduction at the end of November 1992, but realistically we must recognise that this might slip to January 1993. Obviously the complexity of the legislation, and therefore the time taken to prepare it, will be affected by decisions yet to be taken by Ministers on the form in which the industry should actually be privatised.

I am copying this letter to Jeremy Heywood and Philip Rutnam (Treasury) and Sonia Phippard (Cabinet Office).

Yours
John

J S NEILSON
Principal Private Secretary

Prime Minister

COAL INDUSTRY PRIVATISATION

1. Following the successful completion of the privatisation of the electricity supply industry in England and Wales I have been considering how best we could make progress towards the privatisation of the coal industry. It has, of course, been our announced policy for some time to privatise the industry in the course of the next Parliament. Preparatory work has been in hand within my Department to consider the possibilities and to examine the more significant of the many technical issues involved. We have, however, been working on the basis that there would be no public consideration of how we might privatise the industry until after the election. The purpose of this approach has been to avoid the risk of stirring up industrial relations problems in the industry and to prevent the matter becoming a significant political issue in the run up to a general election.

2. In my view, this remains the most sensible approach. I believe the right course of action would be to aim to embark on a period of public consultation (including, of course, detailed discussions with British Coal) immediately following the election, with a view to publishing a White Paper after about six months. Although the timing of the election of course remains uncertain, I nevertheless believe that we should start with the objective of aiming to introduce the necessary legislation into Parliament in the autumn of 1992, if there is an election in June. While I do not underestimate the complexity of the task, such a timetable would allow the industry to be privatised before



the end of the next Parliament and would also fit in with the necessary renegotiation of British Coal's contracts with National Power and PowerGen before their expiry on 31 March 1993. The outcome of this renegotiation will be critical for the future size and shape of the industry and is likely to lead to a further substantial restructuring. I believe that this must be carried through before we could responsibly consider selling the industry.

3. I attach at Annex A a suggested timetable showing the main events on the basis of a June 1991 election. It should be our aim to complete the passage of the legislation by the summer of 1993. If the election were to be later, we would need to look again at the timetable in the light of progress in the interim on the preparatory work. Also attached at Annex B is a work programme showing the main tasks for the first part of the timetable.

4. We have discussed the possibility of advancing the timetable by embarking on a consultation exercise before the election. This would certainly be possible, though not necessary to meet the objective of privatising the industry in the forthcoming Parliament, given the work already in hand. There would, however, be a real risk that debate ahead of the election would focus on the strategic role of the coal industry, rather than on privatisation issues, with criticism of the Government for having handed over to the electricity generators responsibility for major decisions affecting the future of the industry. I therefore would not recommend such an approach. Nevertheless, should you judge it desirable to seek early views, I attach a draft at Annex C which indicates the matters that might be mentioned in such a consultative document. Our own backbenchers with mining interests, whilst clear that they support our commitment to privatise British Coal in the next Parliament, would not welcome the possibility of detailed matters being raised as an election issue.



5. I should of course wish to discuss our intentions with Mr Clarke so that British Coal set the necessary work in hand to ensure that our objectives can be met. The Chairman already well understands the significance of his role and it is important that his team quickly settles down to the task in hand.

6. In order to put ourselves in the best possible position to make progress immediately following the election, I believe that it would be advantageous to make an early appointment of advisers (merchant banking, economic/accounting, legal and technical as necessary), preferably soon after Easter. Even in the absence of a formal public consultation, it is inevitable that this will become public knowledge. It should, however, cause no surprise given that our commitment to privatise the industry is long-standing. I would make it clear that the advisers would be assisting my Department in exploratory work and that no decisions would be taken until after the election. Amongst the initial questions that I would wish to put to advisers would be to ask their view on whether it would be possible or financially prudent to privatise the industry before the renegotiation of the coal contracts; to examine the likely coal purchasing strategies of the generators, so that we could better assess the scale and possible structures of the coal industry after privatisation; and also to quantify the extent of the industry's historic liabilities.

7. Privatising the coal industry will neither be an easy task nor can it be achieved rapidly. A great deal of complex, detailed and technical work will be involved. Nevertheless, I believe that this timetable offers a realistic framework within which we can achieve the privatisation of the industry within the next Parliament and I commend it to you on that basis.

8. I have had some discussions with Francis Maude over the timetable. Francis has been keen to explore moving even more quickly to allow privatisation in mid 1992, before the new

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contracts with the generators. This route would require a Bill with scheme making powers to be introduced this Autumn, and probably a Bill dealing with more technical matters in the 1992-93 session. I understand he will be minuting you shortly setting out this approach. I remain convinced that this is not practicable but, as indicated above, I am content that the question should be put to our advisers.

9. I am copying this minute initially only to Norman Lamont, Francis Maude and to Sir Robin Butler.

A handwritten signature in blue ink, appearing to be 'J. Smith', is written above a horizontal line.

SECRETARY OF STATE FOR ENERGY

27 March 1991

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Annex A

MAIN TIMETABLE

Date of General Election	October 1991
Public consultation	November 1991-February 1992
White Paper published	April 1992
Legislation introduced	end-November 1992
[Shadow coal companies identified]*	November 1992
Negotiations with generators#	Summer 92-March 93
New contracts with generators	April 1993
[Shadow coal companies identified]*	April 1993
Royal Assent to legislation	June-July 1993
Vesting of British Coal's assets in successor companies and residuary body/ licensing authority	Autumn 93-Spring 94
Sale of successor companies	mid 1994-mid 1995

* Timing of identification of shadow companies depends on whether outcome of negotiations with generators can be forecast with sufficient confidence to take a view on the future size and structure of the coal industry.

Negotiations involve shadow companies, if they exist, otherwise the Corporation. In any event, new contracts must be negotiated on a basis that allows for future structural change.



Annex B

WORK PROGRAMME*

- | | | |
|----|---|--------------------|
| a. | Initial analysis of options for ownership of coal, and for licensing if coal vested in the Crown | - May 91 |
| b. | Initial analysis of options for dealing with coal industry's historic liabilities | - July 91 |
| c. | Assessment of planning and environmental regime appropriate to a private sector coal industry | - October 91 |
| d. | Review of extant coal industry legislation, including employment legislation | May-October 91 |
| e. | Consideration of the development of the coal market under the influence of the privatised electricity supply industry | - February 92 |
| f. | Consideration of scope for productivity improvements as a basis for assessing the future scale, location and value of the coal industry | - December 91 |
| g. | Detailed policy formulation on ownership/licensing issues | June 91- |
| h. | Detailed treatment of historic liabilities | August 91- |
| i. | Consideration of options for structure of the privatised industry | July 91-April 92 |
| j. | Consideration of a fiscal regime | July 91-April 92 |
| k. | Consideration of possible modes of sale | July 91-April 92 |
| l. | Preparation of Instructions for legislation | November 91-May 92 |
| m. | White Paper published | April 92 |
| n. | Drafting of legislation | May 92-November 92 |
| o. | Legislation introduced | end November 92 |

* Assuming an October 1991 election.



COAL INDUSTRY PRIVATISATION

CONSULTATION PAPER - OUTLINE

1. Reasons for privatising the industry

- Government's general approach to public sector.
- not a natural monopoly.
- main customers now in the private sector.
- scope for enterprise and innovation.

2. Ownership of the coal resource

- either vest coal in the Crown and operate a licensing system; or
- sell the resource freehold.
- royalty or other fiscal regime.

3. Future of the industry as a whole

- market prospects.
- importance of further productivity growth and cost reduction for competitiveness.
- need for pit closures and likely effect on manpower.
- need to continue to raise safety standards.



- training.
- research and development.

4. Environmental and planning aspects

- maintain standards of opencast and deep mine sites.
- recognise constraints arising from environmental impact of coal burn - acid rain, flue-gas desulphurisation and CO₂ constraints.
- relationship to planning regime.

5. Structure of a privatised industry

- Government open-minded, subject to recognising importance of competition as a spur to innovation and enterprise.
- nucleus of private industry already exists in licensed sector and opencast contractors.
- how many successor companies and how big?
- regionally-based mining companies, or national companies with balanced portfolios?
- opencast coal privatised separately from deep mines?
- need for economic regulation?

6. Possible methods of sale

- management/employee buy-outs.
- trade sales.



- flotation.
 - employee participation.
7. The industry's liabilities for which provision will need to be made
- as an employer (pensions, concessionary fuel, industrial illnesses).
 - the cost of future redundancies.
 - the physical legacy (subsidence, site restoration, responsibility for old mine shafts and entrances, and for water and gaseous discharges).



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